

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

TONYA R. POWELL,

Plaintiff,

vs.

Civ. Action No.
3:04-CV-1192 (TJM/DEP)

OFFICER COLHSON, et al.

Defendants.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

TONYA R. POWELL, pro se
P.O. Box 314
Johnson City, New York 13790

FOR DEFENDANTS:

CITY OF BINGHAMTON
CORPORATION COUNSEL
38 Hawley Street
Binghamton, New York 13901

GREGORY J. POLAND, ESQ.

DAVID E. PEEBLES
U.S. MAGISTRATE JUDGE

ORDER APPROVING DEFENDANTS'
WAIVER OF POTENTIAL CONFLICT

On August 17, 2005 I issued an order directing defendants to take certain steps calculated to allow for a determination of whether defense

counsel has fulfilled the ethical obligation to inform the defendants being jointly represented in this case of the potential adverse consequences of that joint representation, and whether each jointly represented defendant understands the nature of the potential conflict and has knowingly and voluntarily waived it. In response, as directed, defendants' counsel has submitted affidavits of Mayor Richard Bucci, Police Chief John Butler, and Police Officer Michael Chalson, stating that they have been apprised of the nature of the potential for conflict arising from joint representation of them by counsel and have chosen, notwithstanding that potential conflict, to continue being represented by their current counsel.

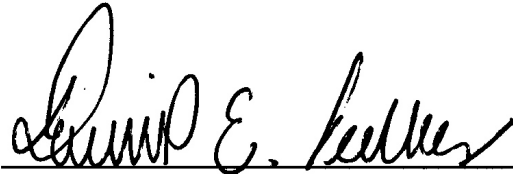
Based upon the foregoing, the court having reviewed the contents of the affidavits referred to above, it is hereby

ORDERED as follows:

1) Based upon the circumstances of which this court is presently aware, including the information set forth in the affidavits of Mayor Richard Bucci, Police Chief John Butler, and Police Officer Michael Chalson, with exhibits, I find that those defendants have been provided with sufficient written notice by counsel of the potential for conflict inherent in their being jointly represented by the same attorney, and have knowingly and voluntarily chosen to waive that potential for conflict and proceed with that joint representation.

2) The affidavits of Mayor Richard Bucci, Police Chief John Butler, and Police Officer Michael Chalson, all of which were submitted pursuant to the court's order dated August 17, 2005, and contain sensitive and attorney-client privileged matters, shall be filed by the court under seal.

3) Copies of this order shall promptly be sent by the clerk to the plaintiff by regular mail and defendants' counsel electronically.

A handwritten signature in black ink, appearing to read "David E. Peebles", written over a horizontal line.

David E. Peebles
U.S. Magistrate Judge

Dated: October 17, 2005
Syracuse, New York

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